

# Exhibit 16

**SECOND DECLARATION OF ELIZABETH BURNETT**

COMES NOW, Elizabeth Burnett, and pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

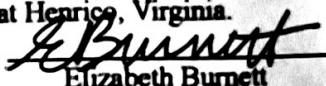
1. My name is Elizabeth Burnett, and I am over 18 years old. I have personal knowledge of the facts as stated herein.
2. This declaration is submitted to supplement my initial declaration, Declaration of Elizabeth Burnett in support of Plaintiff's Motion for a Temporary Restraining Order and accompanying exhibits, ECF 5-3.
3. I am the mother of B.B., who is 11 years old and is in sixth grade at Quioccasin Middle School, which is part of Henrico County Public Schools. B.B. has been diagnosed with chronic lung disease and, as a result of medical treatments, is immunocompromised. His lung function is only 50% and he has increased susceptibility for infections. These conditions put B.B. higher risk for severe complications if he were to become infected with COVID-19. B.B. is at heightened risk from COVID-19 even after being vaccinated and boosted. *See Decl. of Elizabeth Burnett, ECF 5-3.*
4. I also have one other child, N.B., who has autism but does not have health conditions that put him at greater risk for severe complications should he contract COVID-19. N. B. is 11 years old and in sixth grade.
5. On February 16, 2022, following the passage of Senate Bill 739, Henrico County Public Schools lifted its mask mandate. I was notified of the change in policy by my sons' principal before other community members were notified because he knew the decision would impact B.B.'s ability to attend school in person due to his heightened risk from COVID-19.
6. Following my conversation with the principal, I received an email from Eileen Cox of Henrico County Public Schools, stating that, "In compliance with the new state law, HCPS will adjust student mask practices beginning Thursday, February 17. We strongly recommend universal mask use indoors by students during times of high community transmission; however, we understand that some parents/guardians will opt their children out." *See Ex. A (Email from Eileen Cox to E. Burnett dated February 16, 2022).*
7. I was stunned to learn that the mask mandate would be lifted the very next morning, less than 24 hours after I received notice. I thought my family would have time to create a plan for my children to safely attend school or otherwise access their education, and to prepare my children for the disruption to their education.
8. Instead, as a result of Senate Bill 739 and the Henrico County Public Schools' change in policy, B.B. and his brother needed to remain home suddenly home and were unable to receive any education on February 17, 2022 and February 18, 2022. My children are not able to return to school in person at this time because of the risk to B.B. I had to contact the school principal to arrange a time to pick up B.B.'s mobility aide and oxygen concentrator that he uses at school, and to see if the boys can say goodbye to their friends and teachers and get some closure.
9. Because B.B. and N.B. cannot attend school without reasonable accommodations, the school informed me of three possible options for obtaining their education: the Virginia Virtual Academy, temporary homebound instruction, and home schooling. These options are not appropriate for my children.
10. Despite the fact that Virtual Virginia is not appropriate and will separate B.B. and N.B. from their peers, B.B. and N.B. will enroll in Virtual Virginia so they can access some form of education.
11. B.B. is devastated by the sudden change. He was supposed to take Drama as an elective this semester and he was going to have a lead part in their play. He was very excited and has been talking about it all year. Now, B.B. will not be able to participate and we have to find a way to explain the disappointment to an 11-year-old little boy. He will also miss all of the community events, extra-curriculars, and socialization that in-person education provides that simply cannot be replicated in a virtual setting.

12. N.B. is also impacted by this change. N.B.'s autism means that he needs time to adjust to even small changes in routine. He has been forced to experience too many transitions over the last two years. It was a big adjustment for him to go back to in person, and now going back to virtual has the potential to derail his progress.

13. Last night, B.B. and N.B. cried themselves to sleep. My entire family is exhausted and frustrated.

I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated this \_\_\_\_ day of February, 2022 at Henrico, Virginia.

  
Elizabeth Burnett